

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456

Master File No. 01-12257-PBS

Subcategory No. 06-11337-PBS
Civil Action No. 08-cv-10852

THIS DOCUMENT RELATES TO:

*United States of America ex rel. Ven-A-Care of
the Florida Keys, Inc., by and through its principal
officers and directors, Zachary T. Bentley and
T. Mark Jones v. Actavis Mid Atlantic LLC, et al.*

Judge Patti B. Saris

Magistrate Judge Marianne B. Bowler

**DEFENDANTS' MOTION TO COMPEL THE STATE OF NEW JERSEY DIVISION OF
MEDICAL ASSISTANCE AND HEALTH SERVICES TO PRODUCE DOCUMENTS**

Pursuant to Federal Rules of Procedure 37 and 45, defendants Actavis MidAtlantic LLC, Alpharma USPD Inc. f/k/a Barre National Inc., and Barre Parent Corp. (collectively "Actavis MidAtlantic"); Par Pharmaceutical, Inc. and Par Pharmaceutical Companies, Inc. (collectively "Par"); Sandoz Inc. f/k/a Geneva Pharmaceuticals Inc. ("Sandoz"); and Watson Pharmaceuticals, Inc. and Watson Pharma, Inc. f/k/a Schein Pharmaceutical, Inc. (collectively, "Watson") (together, the "Defendants") respectfully move for an order compelling non-party the State of New Jersey (the "State" or "New Jersey") Department of Human Services Division of Medical Assistance and Health Services ("DMAHS") to produce documents requested by subpoenas served by Defendants on DMAHS.

As set forth in the accompanying memorandum, the grounds for Defendants' motion are that the requested documents are highly probative of claims and defenses in this case, and the document requests are narrow, reasonable, and not overly broad or unduly burdensome. Moreover, DMAHS has no basis to assert any deliberative process or other privilege in the

requested documents, and it has waived its privilege claims. Furthermore, this MDL court has authority to hear this motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Sandoz requests oral argument on the issues raised in this motion, which it believes will assist the Court in deciding the motion.

Dated: May 20, 2011

Respectfully submitted on behalf of all Defendants

By: /s/ Heather K. McDevitt
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CERTIFICATION PURSUANT TO LOCAL RULES 7.1 AND 37.1

I, Heather K. McDevitt, hereby certify that, on behalf of all Defendants, counsel for Sandoz have conferred with counsel for DMAHS and have attempted in good faith to resolve or narrow the issues within the motion. I further certify that the parties have not been able to reach agreement with respect thereto.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing (1) DEFENDANTS' MOTION TO COMPEL THE STATE OF NEW JERSEY DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES TO PRODUCE DOCUMENTS; (2) DEFENDANTS' MEMORANDUM IN SUPPORT OF THEIR MOTION TO COMPEL THE STATE OF NEW JERSEY DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES TO PRODUCE DOCUMENTS; and (3) PROPOSED ORDER were delivered to all counsel of record and to counsel of the United States by electronic service in accordance with Paragraph 11 of the Case Management Order No. 2, by sending on May 20, 2011, a copy to Lexis-Nexis for posting and notification to all parties. I further certify that I have caused a true copy of the same to be delivered to counsel for non-party New Jersey Division of Medical Assistance and Health Services via electronic mail and UPS.

/s/ Daniel Cohen
Daniel Cohen